IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 17/06/2004

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THE HONOURABLE MR.JUSTICE P.K.MISRA
AND
THE HONOURABLE MR.JUSTICE F.M.IBBRAHIM KALIFULLA

Writ Petition No.14412 of 2004
and
W.P.M.P.No.17052 of 2004

P.Rajendran .. Petitioner

-vs-

1. The District Collector,
Collector Office,
Salem District.

2. The Divisional Development Officer,
Sangagiri, Salem District.

3. The Commissioner cum Block
Development Officer,
Pallipalayam, Salem District.

4. The Registrar,
Tamil Nadu Administrative Tribunal,
Chennai-104. .. Respondents

Petition under Article 226 of the Constitution of India praying for issuance of Writ of Certiorari to call for the records pertaining to the impugned order of the first respondent issued in Na.Ka.No.44653/9 1/P1, dated 26.3.1992, the order of the third respondent passed in Na.Ka.No.1734/1992/A3 dated 16.4.1992, the order of the frourth respondent passed in O.A.No.2133/1992 dated 10.9.2003 and the order of the third respondent passed in Na.Ka.No.2774/2000/T2, dated 7.4.2004 and quash the same.

!For Petitioner : Mr.Veerakathiravan

^For Respondents : Mr.S.T.S.Murthi, Spl.G.P.
For RR 1 to 3

:O R D E R
(Order of the Court was made by F.M.IBBRAHIM KALIFULLA,J.)

The petitioner seeks to challenge the order of the Tribunal dated 1 0.9.2003 in O.A.No.2133 of 1992 rejecting the petitioner's O.A. challenging the notice issued to him directing him to exercise his option either to continue in the post of Village Panchayat Clerk or his avocation as extra departmental post master.

2. The petitioner, before being appointed as part-time clerk in the village panchayat of Kadachanallur, Tiruchengode Division, in the year 1990, was also an extra departmental post master in the very same village. For being appointed as a part-time clerk, the Department of Posts, Government of India issued a letter dated 1.2.90 permitting him to join as a part-time clerk without affecting the working hours of the branch post office. After his appointment as part-time clerk, on 28.12.90, the petitioner was also made a f ull time clerk in the very same panchayat as from 1.1.91 on a consolidated pay of Rs.440/-, as could be seen from the communication of the Commissioner dated 21.5.91. The said position was reiterated in the subsequent communication of the Commissioner of Pallipalayam Panchayat Union dated 19.7.91. Therefore, it became certain that the petitioner's status as panchayat union's servant in the post of a clerk was confirmed except to the effect that he was getting a consolidated pay initially of a sum of Rs.440/-, which has now been raised to Rs.800/-. In the above stated circumstances, pursuant to the direction of the District Collector, Salem, the Pallipalayam panchayat union called upon the petitioner by a communication dated 16.4.92 to exercise his option and make it clear as to whether he would like to continue as panchayat union servant or carry on the other avocation of extra departmental post master. It was the above communication which came to be challenged by the petitioner in the present O.A. in O.A.No.2133 of 1992.

3. Having regard to the above said factors, the Tribunal has held that inasmuch as the petitioner has become a full time panchayat servant as from 1.1.91, there was every justification in the panchayat union in calling upon the petitioner to exercise his option and make the stand clear. We are also of the considered view that where there is widespread unemployment prevalent in our country, a person cannot be permitted to hold two lucrative posts in Government service at the same time and thereby deprive of one other person of his legitimate right to have his livelihood by securing at least a part time employment either in the State service or Central service. It would be a source of livelihood for that other person to fulfill his other essential obligations. Viewed in that respect, we find the claim of the petitioner to be highly unreasonable and unjustified when he insists that the respondent can never call upon the petitioner to exercise his option to continue either in the post of panchayat service or retain his avocation as extra departmental post master.

4. Looked at from any angle, we do not find any illegality in the order of the Tribunal, on the other hand, we find a totally unjustified claim having been made on behalf of the petitioner when he came forward with the present O.A. In such circumstances, we do not find any merit in this writ petition. The writ petition, therefore, fails and the same is dismissed. No costs. Consequently, W.P.M.P.No.17052 of 2004 is also dismissed. The petitioner shall exercise his option to the respondent within one month from

this date.

Index: Yes
Website: Yes
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To
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